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Human rights situation in Kosovo

Report of the Secretary-General

I. Introduction

1. At its fifty-second session, on 12 December 1997, the General Assembly adopted resolution 52/139, entitled "Situation of human rights in Kosovo", by which the Assembly took note of the reports of the Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, which described the continuing serious human rights situation in Kosovo, including arbitrary arrests, severe ill-treatment or torture, deaths in police custody and violent searches of the houses of political activists or persons working in so-called "parallel" institutions of Kosovo Albanians. The General Assembly welcomed the visits to Kosovo of the Special Rapporteur and her reports and called upon her to continue to monitor closely the human rights situation in Kosovo. At the same time, the Assembly urged the authorities of the Federal Republic of Yugoslavia to allow the immediate unconditional return of the mission of long duration of the Organization for Security and Cooperation in Europe (OSCE) to Kosovo, as called for in Security Council resolution 855 (1993) of 9 August 1993.

2. The Assembly also welcomed the report of the Secretary-General on the situation of human rights in Kosovo (A/52/502), submitted pursuant to General Assembly resolution 51/111 of 12 December 1996, and requested him to continue his efforts to seek ways and means, including through consultations with the United Nations High Commissioner for Human Rights and relevant regional organizations, to establish an adequate international monitoring presence in Kosovo, and to report thereon to the Assembly at its fifty-third session.

3. On 15 January 1998, the Special Rapporteur, Elisabeth Rehn, resigned from her post, but in her final report to the Commission on Human Rights (E/CN.4/1998/63), she expressed alarm about the continuing occurrence of serious abuses by the police and security forces and other human rights violations in Kosovo. On 13 March 1998, the Chairman of the Commission on Human Rights appointed Jiri Dienstbier as the new Special Rapporteur.

4. On 22 April 1998, at its fifty-fourth session, the Commission on Human Rights adopted resolution 1998/79, in which it welcomed the visit by the new Special Rapporteur, to the Federal Republic of Yugoslavia from 5 to 8 April 1998. The Commission endorsed the recommendations contained in his report on the visit (E/CN.4/1998/164), in particular that the Federal Republic of Yugoslavia should permit forensic investigation by independent experts into two operations which had taken place in Kosovo, one on 28 February 1998 in Likosani and Cirez and the second on 5 March 1998 in Prekaz. The Commission declared that all parties should allow free access for international and humanitarian organizations and

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the establishment of a temporarily expanded office of the Office of the United Nations High Commissioner for Human Rights operating out of permanent premises to be established in Kosovo. The Commission called on the Government of the Federal Republic of Yugoslavia to take immediate action, in view of the deteriorating situation, to put an end to the continuing repression of, and to prevent violence against, the ethnic Albanian population, as well as other communities living in Kosovo. The Commission insisted that the Government agree to the establishment of an office of the Office of the United Nations High Commissioner for Human Rights in Pristina, and that it broaden cooperation with other regional and international actors, including by allowing the return of the long-term mission of OSCE and the establishment of a European Union presence in Kosovo.

II. Recent developments in the human rights situation

5. From April 1998, the scope and intensity of the conflict in Kosovo grew dramatically while the human rights situation deteriorated, and prospects for improvement arose only with the accord reached on 13 October 1998 between President Slobodan Milosevic and Richard Holbrooke, the envoy of the United States of America. Serious human rights abuses were being reported on a daily basis throughout the summer and early autumn. Fierce fighting took place in July and August, particularly around Orahovac, Malisevo, Djakovica and the Drenica region. At least 138 people, including 10 women, 9 minors and 19 elderly persons, were reportedly killed in clashes in the first three weeks of August. Some 700 people are believed to have lost their lives since hostilities began in the spring, while more than 240,000 people were estimated to be internally displaced in Kosovo and other parts of Yugoslavia. Another 14,000 people had fled across the border to Albania. As a result of fighting, tens of thousands of people fled their villages into the surrounding forests, and concerns deepened that the crisis would turn into a humanitarian catastrophe unless they were able to go back to their homes before the onset of winter. There were widespread reports of government forces burning and looting houses and villages in areas under their control.

6. On 24 August 1998, three aid workers of the Kosovo Albanian humanitarian organization "Mother Theresa" were killed near Vlaski Drenovac when their tractor convoy carrying relief supplies was hit by artillery shells. On 27 August eight children and three women from the same Kosovo Albanian family were killed by a mortar shell while they travelled by tractor-trailer in Grapce near Stimlje. On 27 August 1998, government forces launched a two-day campaign involving mortars and artillery in and around the village of Senik. Government forces reportedly opened mortar fire close to a group of internally displaced persons camped on a hillside, killing 8 people and wounding 37, including women and children.

7. In mid-September, government forces mounted a large-scale campaign in the Cicevica mountains, and clashes were reported in several locations, resulting in civilian casualties and new displacement. Fighting decreased at the end of September and only sporadic exchanges were reported in the first days of October. The Milosevic-Holbrooke agreement of 13 October 1998 brought a halt to heavy fighting in Kosovo, although sporadic exchanges of fire continued to be reported in several locations. Some internally displaced persons took the opportunity of the cessation of hostilities to return to their homes. On 23 October 1998, four persons, including three children, were reportedly shot and killed by Serbian government forces while crossing the border between Albania and the Federal Republic of Yugoslavia into Kosovo. It was reported that the family had sought refuge in Albania one month earlier and, with the ceasefire, had determined to return.

8. The period since August has been marked by more discoveries of concentrations of corpses and evidence of massacres, including the massacre of Serb and Albanian civilians. Serbian authorities announced that, on 27 August 1998, in the village of Klecka, they discovered in a makeshift crematorium what they believe are the remains of civilians abducted and then killed by the Kosovo Liberation Army (KLA). Serbian Ministry of Interior officials announced that they had arrested two members of the KLA who had given statements describing the torture and execution of a number of abducted persons, including women and children. One of those arrested was brought to the scene and questioned in the presence of reporters; later, his arraignment before an investigative judge was broadcast on television. The exact number, identity, age and sex of the persons who died at Klecka has yet to be determined.

9. On 2 September 1998, the United Nations High Commissioner for Human Rights issued a statement in which she drew attention to statements, made by all parties in the Kosovo crisis, calling for independent investigation by experts, including international forensic specialists, into the violent deaths resulting from armed actions. The High Commissioner observed that "joint efforts to promote independent investigation into these tragedies are in the interest of all persons committed to human rights in Kosovo".

10. Shortly after the discovery of the Klecka site, the remains of at least 37 persons were discovered in nearby Glodjane. In contrast to the treatment of the Klecka site, Glodjane and others subsequently discovered appear to have been treated more carefully and clinically by government authorities and the media. On 29 September 1998, the bodies of 14 Kosovo Albanians, including six women, six children and two elderly men, were found in a forest close to the village of Gornje Obrinje in the Drenica region. Four of the children were under the age of 10, the two youngest being about four years of age. One of the women was pregnant. International observers who went to the scene reported that some bodies had been heavily mutilated. Most of the killed had been shot in the head at close range, and their throats had been slit. There are reports that on 26 September 1998, another 14 Kosovo Albanian men had been massacred in the village of Golubovac, a few kilometres from Gornje Obrinje. In early October 1998, the police discovered the remains of four persons believed to have been abducted by KLA in a pit close to the Volujak copper mine near Klina. Two more bodies were reportedly found on 4 October 1998 near Gremnik.

11. The fate of many Serbian, Kosovo Albanian and Roma civilians and Serbian police officers abducted by armed Kosovo Albanians, believed to belong to KLA, remains unknown. Yugoslav authorities say that 249 civilians and police have been abducted by KLA. Ninety-two of those persons were reportedly released, 9 escaped and 29 have been found dead. The International Committee of the Red Cross reports that it is currently following around 140 cases of abductions. On 21 August 1998, Djuro Slavuj, a journalist with Radio Priština, and his driver, Ranko Peranic, disappeared while on assignment in the Orahovac area. Nothing has been heard from the men since, and it is feared that they may have been abducted. In early October 1998, two more persons, State news agency journalists, were abducted while en route to Magura by armed Albanians. The political representative of KLA, Adem Demaqi, gave assurances of the journalists' well-being if they were abducted by KLA, but did not exclude the possibility that they had been abducted by non-KLA members. During his recent mission to the Federal Republic of Yugoslavia, the Special Rapporteur appealed for the release of abductees.

12. Initiatives by the European Union, the Government of the Federal Republic of Yugoslavia and international organizations, including the Office of the United Nations High Commissioner for Human Rights, calling for independent investigations into alleged massacres and arbitrary killings in Kosovo have gained momentum in the last month. The Serbian authorities have announced that their experts are investigating the killings in Gornje Obrinje and Glodjane. Upon the invitation of the Institute for Forensic Medicine of the Belgrade Medical Faculty and following correspondence between the Governments of the Federal Republic of Yugoslavia and Finland, a team of forensic experts from Finland arrived in Belgrade on 20 October 1998. The team, working under the auspices of the European Union, will assist the authorities of the Federal Republic of Yugoslavia in forensic investigations in Kosovo, but is also authorized to carry out independent investigations.

13. The Office of the United Nations High Commissioner for Human Rights continues to follow reports of persons who have been arbitrarily arrested for questioning and kept in pre-trial detention for periods well beyond the legal time limit. In addition to arrests in connection with police actions in the field, the Office has also investigated cases of arbitrary arrests and harassment of Kosovo Albanian lawyers, political activists and humanitarian workers. There are also many reports of torture and ill-treatment during pre-trial detention, including at least five alleged cases of death in custody. The Serbian Ministry of Justice has announced that more than 700 persons were currently under investigation, and that a series of trials would commence in October 1998. Some of the accused would be tried in absentia. Monitors from the Office were present when the first of the trials opened in Prizren on 22 October 1998, and would continue to follow trials scheduled for October and November 1998. Some of the defendants had reportedly been tortured under interrogation, and in such politically sensitive trials there were serious concerns regarding the independence of the courts and defendants' access to legal counsel.

III. Access by United Nations human rights missions

14. The office established by the Office of the United Nations High Commissioner for Human Rights in the Federal Republic of Yugoslavia continues its monitoring presence in Kosovo and reports regularly to the Office of the High Commissioner at Geneva and to the Special Rapporteur, Jiri Dienstbier. On 23 September 1998, the High Commissioner for Human Rights met in New York with the Foreign Minister of the Federal Republic of Yugoslavia, Zivadin Jovanovic. That meeting was followed by new rounds of working discussions in New York and Belgrade on an agreement to formalize the status of the Office of the United Nations High Commissioner for Human Rights in

the Federal Republic of Yugoslavia. The parties have endorsed a final text of the agreement.

15. From 10 to 21 September 1998, the Special Rapporteur of the Commission on Human Rights, Jiri Dienstbier, conducted his second mission to the Federal Republic of Yugoslavia, travelling to the capital as well as to Montenegro, Sandzak and Kosovo. The Special Rapporteur conducted another field mission to the Federal Republic of Yugoslavia from 21 to 29 October 1998 to follow up recent developments in Kosovo, in preparation for the presentation of his report to the General Assembly. The Government of the Federal Republic of Yugoslavia has cooperated fully with the Special Rapporteur during his missions.

16. From 10 to 12 September 1998, the Special Representative of the Secretary-General for Children in Armed Conflict, Olara Otunnu, visited the Federal Republic of Yugoslavia. The Special Representative met with senior government officials and others in Belgrade and then travelled to Kosovo, where he met with local government officials, Kosovo Albanian representatives and representatives of international agencies. The mission included field trips to several locations in Kosovo.

17. In mid-October 1998, the Secretary-General sent a mission, headed by Staffan de Mistura, to the Federal Republic of Yugoslavia to establish a first-hand capacity to assess developments on the ground in Kosovo, including human rights developments. The mission remained in the Federal Republic of Yugoslavia from 17 to 26 October 1998 and included representatives of the Office of the High Commissioner.

IV. Access by the Organization for Security and Cooperation in Europe

18. As noted in earlier reports, the Conference on Security and Cooperation in Europe (CSCE) in 1992 established a mission of long duration in the Federal Republic of Yugoslavia which had the following tasks: (a) to promote dialogue between the authorities concerned and representatives of the communities in three regions (Kosovo, Sandzak and Vojvodina); (b) to collect information on all aspects relevant to violations of human rights and fundamental freedoms and promote solutions to such problems; (c) to establish contact points for solving problems that might be identified; and (d) to assist in providing information on relevant legislation on human rights, protection of minorities, free media and democratic elections.

19. The mission maintained its presence in Kosovo for 10 months. It carried out its mandate with the formal consent and support of the authorities of the Federal Republic of Yugoslavia, in accordance with a memorandum of understanding signed on 28 October 1992. Following the elections in Yugoslavia in December 1992 and its exclusion from CSCE membership, the Government withdrew its formal consent for the mandate, and the mission therefore departed in July 1993.

20. The Milosevic-Holbrooke accord reached on 13 October 1998 on a political solution to the Kosovo crisis was followed by the signing of an agreement with OSCE (formerly CSCE) providing for the deployment of a 2,000-member OSCE Verification Mission to monitor compliance with Security Council resolutions 1160 (1998) and 1199 (1998). According to a decision by the OSCE Permanent Council, verification efforts would be "related to compliance of all parties in Kosovo with the requirements set forth by the international community". The mission did not have an explicit human rights mandate. On 17 October 1998, OSCE Chairman-in-Office, Bronislaw Geremek, appointed William Graham Walker of the United States as head of the OSCE Kosovo Verification Mission. A 20-member OSCE technical assessment mission arrived in Belgrade on 18 October 1998 and began preparations for deployment. OSCE and the Office of the High Commissioner are consulting on ways to cooperate in the field of human rights.

21. In addition to events in the Federal Republic of Yugoslavia, the OSCE presence in Albania and the Spillover Monitoring Mission to the former Yugoslav Republic of Macedonia have involved monitoring activity along the borders of those countries and the Federal Republic of Yugoslavia. The OSCE Chairman-in-Office regularly reports to the United Nations Secretary-General on the situation in Kosovo and on measures taken by OSCE, and there is a regular exchange of letters between the Chairman-in-Office or his representatives and the Belgrade authorities.

V. Conclusions and recommendations

22. The dramatic situation in Kosovo over the last months has led the international community to seek to increase its monitoring capability in the region, and the Milosevic-Holbrooke accord of 13 October 1998 provides a tentative basis for such an increase. The accord provides for up to 2,000 OSCE monitors in Kosovo who will comprise the Kosovo Verification Mission. Meanwhile, the Special Rapporteur and the Office of the High Commissioner are

active throughout the country on the basis of their explicit human rights monitoring mandates. The need for an expanded international human rights presence, linked to the establishment of office premises of the Office of the High Commissioner in Kosovo and undertaken in consultation with OSCE, remains urgent as the human rights situation in the region continues to be a grave cause for concern.